

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

October 7, 2010

In the Matter of KERSJES Minors.

No. 296872

Clinton Circuit Court

Family Division

LC No. 08-020567-NA

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Before: O'CONNELL, P.J., and BANDSTRA and MARKEY, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right the order terminating their parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and, with respect to respondent mother only, (j).¹ We affirm.

On appeal from termination of parental rights proceedings, this Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(K); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). A finding of fact is clearly erroneous if the reviewing court is left with a definite and firm conviction that a mistake was made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). Further, regard is to be given to the special opportunity of the trial court to assess the credibility of the witnesses who appear before it. MCR 2.613(C); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

First, respondent father contends that the trial court clearly erred in finding clear and convincing evidence to support termination of his parental rights. We disagree. Respondent

¹ Respondent father is the biological parent of only one of the two children at issue in these appeals, but the trial court did not make that distinction in its termination order. Respondent mother had a third child during the pendency of this matter, but that child remained in her custody at the time of the termination hearing and is not at issue.

father had not begun to cooperate with the department until after the filing of the petition for termination. He had attended very few counseling sessions. Although he had obtained employment, he still had no home, and his plan for his child was to have him live with respondent mother. The trial court did not clearly err in finding that the conditions that led to the adjudication continued to exist, and there was no reasonable likelihood that they would be rectified within a reasonable time given the age of the child. MCL 712A.19b(3)(c)(i). The trial court also did not clearly err in finding that, without regard to intent, respondent father had failed to provide proper care or custody for the child, and there was no reasonable expectation that he would be able to do so within a reasonable time considering the child's age. MCL 712A.19b(3)(g).

Next, respondent mother contends that the trial court clearly erred in finding clear and convincing evidence to support termination of her parental rights. We disagree. Respondent mother had made some progress during the year before the termination hearing. However, there were still many conditions that had not been rectified, including housing that would be sufficient for three children, income that would be sufficient to provide proper care and custody for the children, a realistic budget, and employment stability. Although she had obtained employment, she had worked for that employer for only six weeks. In addition, she had no credibility with the caseworkers or the court. Throughout this case, she had misrepresented her situation and the facts so frequently that the workers and the court were unable to trust her statements, especially considering her failure to document her assertions concerning employment and income. Although she had completed parenting classes, she did not follow parenting suggestions, and there was evidence of poor parenting decisions. The trial court did not clearly err in finding clear and convincing evidence to terminate respondent mother's parental rights under MCL 712A.19b(3)(c)(i).

The trial court also did not clearly err in finding that MCL 712A.19b(3)(g) and (j) were proven by clear and convincing evidence with respect to respondent mother. At the termination hearing, respondent mother was not in a position to provide proper care and custody for all three children. She had neither sufficient housing nor income. In addition, there was evidence to show that when all three children were under her care, she was not able to maintain sufficient control or supervision. The record thus supports the trial court's conclusion that there was no reasonable expectation that respondent mother would be able to provide proper care and custody for the two older children within a reasonable time. MCL 712A.19b(3)(g). Moreover, respondent mother's judgment was highly questionable, as demonstrated by her failure to benefit from parenting classes, her failure to follow the visitation rules, her lies and deceitful behavior, and her reliance upon her mother who had been deemed unsuitable as a caretaker for the children. Given her deception and lack of judgment, the children were likely to be harmed in her care. MCL 712A.19b(3)(j).

Furthermore, the trial court did not clearly err in finding that termination of parental rights of both respondents was in the children's best interests. MCL 712A.19b(5). Neither could provide the stability or permanence the young children needed and deserved.

Affirmed.

/s/ Peter D. O'Connell
/s/ Richard A. Bandstra
/s/ Jane E. Markey